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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,082	09/12/2003	Kenneth J. Taylor	56232.2-CON	9804
80/253	7590	11/17/2009		
Scyfarth Shaw LLP Two Seaport Lane, Suite 300 Boston, MA 02171			EXAMINER GORTAYO, DANGELINO N	
			ART UNIT 2168	PAPER NUMBER
			MAIL DATE 11/17/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/662,082

**Applicant(s)**

TAYLOR, KENNETH J.

**Examiner**

DANGELINO N. GORTAYO

**Art Unit**

2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/6/2009 has been entered.

***Response to Amendment***

2. In the amendment filed on 10/6/2009, claims 7, 10, and 11 have been amended. The currently pending claims considered below are Claims 7-11.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiting et al. (US Publication 2002/0107877 a1) in view of Bamford et al. ("Bamford" US Patent 5,449,367)

**As per claim 7, Whiting** teaches "In a computer system having a plurality of nodes, each node having access to a shared common database and also having local storage, a method of performing an operation to completely rewrite said shared common database" (see Abstract)

comprising: providing a log in local storage for said node, said node including information regarding data in said shared common database; (paragraphs 0038, 0039, 0052, 0090, wherein a backup directory file contains data about the backup data files and is stored in a node containing information for data in a shared database)

selecting at least one node of said plurality of nodes to perform said operation to completely rewrite said shared common database included in said node; (paragraphs 0033, 0034, 0073, 0084, wherein the nodes contain data files to be stored in a backup storage means and can be selected to rewrite the backup database)

obtaining information regarding a directory location of said log for said at least one node; (paragraphs 0039, 0040, 0041, wherein the backup directory file contains directory location for directory files and data files for data in the nodes)

setting said log to be read/write accessible by said selected at least one node; (paragraphs 0033, 0034, wherein the node can be given read-write access to the directory)

and completely rewriting database data files, control files and log in said shared common database by accessing data in said shared common database and also in said local redo log to provide data to completely rewrite said shared database. (paragraphs

0081, 0083, 0084, 0085, 0086, wherein the backup database is completely rewritten with information from the nodes for backup purposes)

Whiting does not specifically disclose a local archived redo log for each node utilized in a database rewriting system.

Bamford teaches a local archived redo log for each node utilized in a database rewriting system (Figure 3, column 6 line 42 – column 7 line 20, column 10 line 23 – column 11 line 3, column 12 line 63 – column 14 line 9, wherein a redo log is provided to each node of a database system to track transactions to a centralized database)

It would have been obvious at the time of the invention for one of ordinary skill in the art to combine Whiting's method of backing up files on multiple nodes with a central backup server with Bamford's method of providing a log system to clients in a system that tracks information in a central database. This gives the user the advantage of being able to track changes made in a database with a distributed log system, to be able to utilize time stamps and roll over capabilities. The motivation for doing so would be to prevent loss of data when a database system failure occurs (column 2 lines 3-26).

**As per claim 8, Whiting** teaches said archived redo logs in local files on each of said nodes are set to be read and write accessible through mounting with a network file system (NFS), using the same name each of said nodes." (paragraphs 0033, 0034)

**As per claim 9, Whiting** teaches "said archived redo logs are created with names which allow a backup or recover utility to identify to which node an archived redo log belongs." (paragraphs 0042, 0045, 0055, 0085)

**As per claim 10, Whiting** teaches “before said step of completely rewriting database files, control files and said archived redo logs for said computer system, shutting down access to said shared common database.” (paragraph 0098, 0101, 0103)

**As per claim 11, Whiting** teaches “said operation to completely rewrite said shared common database allows for a user- supplied scripts for shutting down access to said common data.” (paragraph 0098, 0101, 0103)

### ***Response to Arguments***

5. Applicant's arguments, see page 4, filed 9/24/2009, with respect to the rejection of claims 7-11 in regards to 35 USC 103(a) have been fully considered but are moot in view of new grounds of rejection. The newly cited prior art of Whiting discloses a method for backing up and rewriting files in a central backup storage from multiple nodes in a computer network. In particular, the nodes in a computer network can initiate complete rewriting of backup data based on backup directory file information, interpreted by the examiner to be a log tracking transactions.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Duyanovich et al. (US Patent 5,555,371 A)

Beeler (US Patent 5,819,020 A)

Ledain et al. (US Patent 5,832,515 A)

Carter et al. (US Patent 5,909,540 A)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANGELINO N. GORTAYO whose telephone number is (571)272-7204. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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